

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
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UNITED STATES OF AMERICA,

Appellee, ORDER
03-CR-1104 (DRH)
-against-

VANDERLEI B. FERREIRA,

Defendant-Appellant,
-----X
A P P E A R A N C E S:

For Appellee:
Roslynn R. Mauskopf
United States Attorney
Eastern District of New York
Alfonse M. D'Amato Courthouse
100 Federal Plaza
Central Islip, New York 11722
By: Demetri Jones, A.U.S.A.

For Defendant-Appellant:
Peter J. Tomao, Esq.
226 Seventh Street, Suite 302
Garden City, New York 11530

HURLEY, District Judge

Defendant-Appellant Vanderlei B. Ferreira ("Ferreira") was sentenced by this Court on April 15, 2004 to, among other things, 27 months imprisonment and 3 years of supervised release. Ferreira appealed that sentence.

Given that the sentence was imposed before the Supreme Court's decision in United States v. Booker, 125 S. Ct. 738 (2005), the Circuit remanded the case "for further proceedings in conformity with [United States v. Crosby, 397 F.3d 103 (2d Cir. 2005)]." Having reviewed the materials that were available to

the Court when sentence was pronounced, against the now advisory guideline range of 27 to 33 months, as well as the other sentencing factors delineated in 18 U.S.C. § 3553(a), the Court tentatively concludes that the same sentence would be imposed now, i.e. post-Booker/Fanfan, as was imposed on April 15, 2004. The term "tentatively" is used because the Court desires input from both the government and defense counsel as to whether, notwithstanding the Court's tentative view, a resentencing is required and, if so, why. Additionally, the Court will entertain any other arguments which either counsel believes is germane as a result of the remand from the Circuit.

The parties are directed to submit letter briefs detailing their respective positions on or before July 1, 2005. Either attorney may respond to the other's submission, should he or she care to do so, on or before July 12, 2005.

SO ORDERED.

Dated: Central Islip, New York
June 14, 2005

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DENIS R. HURLEY, U.S.D.J.